IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARIA SANCHEZ 809 West Oak Street	:
Norristown, PA 19401	: CIVIL ACTION
Plaintiff,	: No
v.	:
MEADOWS MANAGEMENT, INC. d/b/a THE MEADOWS AT SHANNONDELL 6000 Shannondell Drive Audubon, PA 19403	: : JURY TRIAL DEMANDED: :
Defendant.	: :

CIVIL ACTION COMPLAINT

Plaintiff, by and through her undersigned counsel, hereby avers as follows:

INTRODUCTION

1. This action has been initiated by Maria Sanchez (hereinafter referred to as "Plaintiff," unless indicated otherwise) against Meadows Management, Inc. d/b/a The Meadows at Shannondell (hereinafter collectively referred to as "Defendants" unless indicated otherwise) for violations of the Americans with Disabilities Act ("ADA" -42 USC §§ 12101 et. seq.), for common law wrongful discharge in violation of the public policy of the Commonwealth of Pennsylvania and for violations of the Pennsylvania Human Relations Act ("PHRA"). As a direct consequence of Defendant's unlawful actions, Plaintiff seeks damages as set forth herein.

JURISDICTION AND VENUE

¹ Plaintiff will move to amend her instant lawsuit to include claims under the PHRA once her administrative remedies are fully exhausted with the Pennsylvania Human Relations Commission. Any claims under the PHRA though would mirror the instant ADA claims identically.

- 2. This Court, in accordance with 28 U.S.C. § 1331, has jurisdiction over Plaintiff's claims because this civil action arises under laws of the United States.
- 3. This Court may properly maintain personal jurisdiction over Defendant because Defendant's contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in <u>International Shoe Co. v.</u> Washington, 326 U.S. 310 (1945) and its progeny.
- 4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district, and in addition, Defendant is deemed to reside where it is subject to personal jurisdiction, rendering Defendant a resident of the Eastern District of Pennsylvania.
- 5. Plaintiff is proceeding herein under the ADA and has properly exhausted her administrative remedies with respect to such claims by timely filing a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") and by filing the instant lawsuit within ninety (90) days of receiving a notice of dismissal and/or right to sue letter from the EEOC.

PARTIES

- 6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
 - 7. Plaintiff is an adult individual, with an address as set forth in the caption.
- 8. Defendant operates continuing care retirement and rehabilitation communities, including the location where Plaintiff worked.

9. At all times relevant herein, Defendant acted by and through its agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

FACTUAL BACKGROUND

- 10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
- 11. Plaintiff worked for Defendant as a caregiver/nurse's assistant from approximately September of 2019 until her termination in January of 2020.
- 12. At all times during her employment with Defendant, Plaintiff was managed by Defendant's Head Nurse, Kelly (last name unknown) and Supervisor Ruthie (last name unknown).
- 13. During her employment with Defendant, Plaintiff performed her job well and was a dedicated employee who received positive feedback regarding from management regarding her job performance.
- 14. In or about October of 2019, Plaintiff sustained a work-related injury to her upper arm which required physical therapy, and restrictions of light-duty work.
- 15. Plaintiff remained on light duty in connection to her work-related injury until approximately November of 2019.
- 16. In or about mid-December of 2019, Plaintiff suffered a second work-related injury which resulted in a fractured rib and other complications while lifting a patient. Plaintiff was again placed on light-duty work, folding towels in the laundry room for Defendant.
- 17. After both of Plaintiff's work-related injuries, Plaintiff filed for worker's compensation benefits and treated with Defendant's worker's compensation physicians.

- 18. Plaintiff continued to work light duty for the next few weeks up until approximately January 13, 2020, the last physical day Plaintiff worked for Defendant.
- 19. In addition to the conditions related to her workplace injuries, Plaintiff has and continues to suffer from disabilities, including complications related to a stroke and Bellspulsy (as discussed below).
- 20. Plaintiff's aforesaid health conditions, at times, impact her ability to walk, speak, think and perform manual labor (among other daily life activities).
- 21. Despite Plaintiff's aforesaid health conditions, she was still able to perform the essential duties of her job well with Defendant; however, at times, Plaintiff required a reasonable accommodation (in the form of a medical leave discussed *infra*).
- 22. On or about January 14, 2020, Plaintiff began to feel extremely ill, her entire left side was weak, and Plaintiff started drooling. Plaintiff was immediately taken to the hospital wherein she was diagnosed with Bellspulsy and having had a stroke.
- 23. As a result of Plaintiff's stroke and Bellspulsy, Plaintiff has required ongoing medical care and treatment, including medication and speech therapy.
- 24. At the time that Plaintiff was hospitalized, Plaintiff was unable to speak or communicate. Therefore, on the same day that Plaintiff was admitted to the hospital, Plaintiff's husband contacted Defendant and informed Defendant of Plaintiff's hospitalization and diagnosis. Plaintiff's husband communicated with Defendant's management as well as Defendant's Human Resources Coordinator, Erin Crane, and another Human Resources employee by the name of Evan. In addition to informing Defendant of Plaintiff's hospitalization and conditions, Plaintiff's husband further informed Defendant's management and Crane that Plaintiff would not be in for the next few days.

- 25. Plaintiff's husband continued to provide Defendant with updates during Plaintiff's period of hospitalization.
- 26. Plaintiff was released from the hospital on or about January 17, 2020, at which time Plaintiff's husband immediately drove Plaintiff to work to deliver her hospital documentation and a note from Plaintiff's physician recommending that Plaintiff remain out of work for another 10 days until on or about January 27, 2020 so that Plaintiff could engage in physical therapy and increase the strength on her left side (a reasonable accommodation under the ADA).
- 27. However, instead of Plaintiff's very reasonable accommodation of a brief medical leave to treat her aforesaid health conditions being granted by Defendant, Defendant's management called and terminated Plaintiff <u>just 2 days later</u>, stating that they could not hold Plaintiff's position because she did not have any medical or FMLA leave available.
- 28. Thereafter, Plaintiff received a termination letter dated January 24, 2020, stating that Plaintiff's employment with Defendant had been terminated effective January 13, 2020.
- 29. Had Defendant not discriminatorily terminated Plaintiff and made any effort to accommodate Plaintiff, she would have been able to resume working after only missing minimal time from work. It is exceedingly clear that time off from work (*irrespective of* length of employee tenure) is a "reasonable accommodation."²
- 30. Not only is less than 2 weeks of time off for medical reasons an irrefutably reasonable accommodation, Plaintiff was not some key executive who performed a novel role. She

² See e.g. Bernhard v. Brown & Brown of Lehigh Valley, Inc., 720 F.Supp.2d 694 (E.D. PA 2010)(time off from work, even up to 3 months can constitute a reasonable accommodation under the ADA); Conoshenti v. Public Serv. Elec. & Gas Co., 364 F.3d 135 (3d Cir. 2004)(federal courts have permitted leave to be a reasonable accommodation under the ADA); Shannon v. City of Philadelphia, WL 1065210 (E.D. Pa. 1999)(time off from work for an extended period of time is a reasonable accommodation under the ADA).

held a position that was easily covered by other staff in the same and similar roles. There is <u>no</u> <u>justifiable defense</u> to Defendant's utter lack of good-faith interactive dialogue knowing of Plaintiff's diagnosis, her hospitalization and her need for a brief medical leave.

31. Plaintiff believes and therefore avers that she was terminated (1) very shortly after seeking workers' compensation benefits and during the same period of time when she was utilizing light duty due to her work-related injury; (2) at a time when she was confiding in Defendant's management about her aforesaid health conditions; (3) in very close proximity to when she requested and/or utilized reasonable accommodations under the ADA; and (4) for reasons directly related to her aforesaid health conditions and need for an accommodation.

COUNT I

<u>Violations of the Americans with Disabilities Act, as amended ("ADA")</u> (Actual/Perceived/Record of Disability Discrimination & Retaliation)

- 32. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
- 33. Plaintiff suffered from qualifying health conditions under the ADA (as amended), which (at times) affected her ability to perform some daily life activities (as discussed *supra*).
 - 34. Plaintiff requested reasonable accommodations, in the form of time off from work.
- 35. Plaintiff was terminated from her employment (1) shortly after apprising management of her disabilities; (2) immediately after she requested a brief medical leave for her health conditions; and (3) for reasons directly related to her health conditions.
- 36. Plaintiff was terminated from Defendant because of: (1) her known and/or perceived disabilities; (2) her record of impairment; and/or (3) because she requested accommodations, which constitutes unlawful retaliation.
 - 37. These actions as aforesaid constitute violations of the ADA, as amended.

COUNT II Common-Law Wrongful Discharge (Public Policy Violation)

- 38. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
- 39. Upon information and belief, Plaintiff was terminated in substantial part for making a claim for workers' compensation benefits and/or seeking worker's compensation benefits and/or for her work-related injuries (as discussed *supra*).
- 40. It is against Pennsylvania's public policy for an employee to be terminated for making a workers' compensation claim and/or seeking workers' compensation benefits. These actions as aforesaid constitute wrongful termination in Pennsylvania. *See Shick v. Shirey*, 552 Pa. 590, 716 A.2d 1231 (1997); *Rothrock v. Rothrock Motor Sales, Inc.*, 584 Pa. 297, 883 A.2d 511, 516 (2005).
- 41. These actions as aforesaid constitute wrongful termination in Pennsylvania.

 WHEREFORE, Plaintiff prays that this Court enter an Order providing that:
- A. Defendant is to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, reinstatement, and seniority.
- B. Plaintiff is to be awarded punitive damages, as permitted by applicable law, in an amount believed by the Court or trier of fact to be appropriate to punish Defendant for its willful, deliberate, malicious and outrageous conduct and to deter Defendant or other employers from engaging in such misconduct in the future;

- C. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate (including but not limited to damages for emotional distress / pain and suffering);
- D. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorney's fees as provided by applicable federal and state law.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

By:

Ari R. Karpf, Esq. 3331 Street Road Two Greenwood Square, Suite 128 Bensalem, PA 19020 (215) 639-0801

Dated: March 29, 2021

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

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Maria Sanchez	•		
v.	:		
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(a) Habeas Corpus - Cases b	rought under 28 U.S.C. § 2	2241 through § 2255.	()
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(f) Standard Management -	Cases that do not fall into	any one of the other tracks.	(X)
3/30/2021		Plaintiff	
Date	Attorney-at-law	Attorney for	-
(215) 639-0801	(215) 639-4970	akarpf@karpf-law.com	
<u> </u>	FAX Number	E-Mail Address	

(Civ. 660) 10/02

Case 2:21-cv-01509-Mared Regions trictile of 12/30/21 Page 10 of 11 For the Eastern district of Pennsylvania

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 809 West Oak Street, Norristown, PA 19401	,, ,			
Address of Plaintiff: 809 West Oak Street, Norristown, PA 19401 Address of Defendant: 6000 Shannondell Drive, Audubon, PA 19403				
Place of Accident, Incident or Transaction: Defendant's place of business				
Trace of Accident, medent of Transaction. Detendant's place of business				
RELATED CASE, IF ANY:				
	Date Terminated:			
Civil cases are deemed related when <i>Yes</i> is answered to any of the following questions:				
Is this case related to property included in an earlier numbered suit pending or within one year Yes No X previously terminated action in this court?				
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit Yes No X				
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?				
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights Yes No X				
I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.				
DATE: 3/30/2021	ARK2484 / 91538			
Attorney-at-Law / Pro Se Plaintiff	Attorney I.D. # (if applicable)			
CIVIL: (Place a √ in one category only)				
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Case 2:21-cv-01509-MSG G Document 1 Filed 03/30/21 Page 11 of 11 VIL COVER SHEET

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(c) Attorneys (Firm Name, Karpf, Karpf, Karpf & Cerutti, Suite 128, Bensalem, PA	P.C.; 3331 Street Road	l, Two Greenwood S	•			
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□ 110 Insurance □ 120 Marine □ 130 Miller Act □ 140 Negotiable Instrument □ 150 Recovery of Overpayment ∞ Enforcement of Judgment □ 151 Medicare Act □ 152 Recovery of Defaulted Student Loans (Excludes Veterans) □ 153 Recovery of Overpayment of Veteran's Benefits □ 160 Stockholders' Suits □ 190 Other Contract □ 195 Contract Product Liability □ 196 Franchise REAL PROPERTY □ 210 Land Condemnation □ 220 Foreclosure □ 230 Rent Lease & Ejectment □ 240 Torts to Land □ 245 Tort Product Liability □ 290 All Other Real Property	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 755 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury Medical Malpractice CIVIL RIGHTS 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/ Accommodations X 445 Amer. w/Disabilities Employment 446 Amer. w/Disabilities Other 448 Education	PERSONAL INJURY 365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage Property Damage Product Liability PRISONER PETTTIONS Habeas Corpus: 463 Alien Detainee 530 General 530 General 535 Death Penalty Other: 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee Conditions of Confinement	Gest Drug Related Seizure of Property 21 USC 881 Gest Gest Gest Gest Gest Gest Gest Gest	' 422 Appeal 28 USC 158 ' 423 Withdrawal	□ 375 False Claims Act ' 376 Qui Tam (31 USC 3729(a)) □ 400 State Reapportionment □ 410 Antitrust □ 430 Banks and Banking □ 450 Commerce □ 460 Deportation □ 470 Racketeer Influenced and Corrupt Organizations □ 480 Consumer Credit □ 490 Cable/Sat TV □ 850 Securities/Commodities/ Exchange □ 890 Other Statutory Actions □ 891 Agricultural Acts □ 893 Environmental Matters □ 895 Freedom of Information Act □ 896 Arbitration □ 899 Administrative Procedure Act/Review or Appeal of Agency Decision □ 950 Constitutionality of State Statutes	
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VI. CAUSE OF ACTION Brief description of cause:						
VII. REQUESTED IN COMPLAINT:	CHECK IF THIS UNDER RULE 2	IS A CLASS ACTION	DEMAND \$	CHECK YES only JURY DEMAND:	if demanded in complaint: X Yes 'No	
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AMOUNT

3/30/2021 FOR OFFICE USE ONLY

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JUDGE

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MAG. JUDGE